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MAR 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Richard L. Leland and Gary	:	
Fussell	:	
Application No. 10/664,829	:	DECISION REFUSING
Filing Date: September 17, 2003	:	STATUS UNDER § 1.47(a)
Attorney Docket No. TRM011U	:	

This is in response to the "PETITION UNDER 37 CFR 1.47(a)", filed July 12, 2004.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 17, 2003, without an oath or declaration. Accordingly, on December 16, 2003, the Office of Initial Patent Examination mailed a Notice to File Missing Parts, requiring a oath or

declaration, and a surcharge for its late filing.¹ In response, applicants filed the instant petition on July 12, 2004, made timely by obtaining a five month extension of time. Accompanying the petition was a declaration executed by Leland, but with the signature block for Fussell left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirements (2) and (4).

With regards to requirement (2), the declaration does not contain the mailing address and residence of inventor Fussell as required by 37 CFR 1.63(c)(1).

With regards to requirement (4), Rule 47 applicant has not included the required statement of Fussell's last known address.

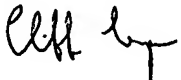
The petition fee of \$130 has been charged to Deposit Account No. 50-2121, as authorized.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

¹ The Notice also required replacement drawings. Applicants have filed drawings with the petition.